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FINANCING OF THE INTERNATIONAL TRIBUNAL FOR THE PROSECUTION OF
PERSONS RESPONSIBLE FOR SERIOUS VIOLATIONS OF INTERNATIONAL
HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF THE FORMER
YUGOSLAVIA SINCE 1991

FINANCING OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE
PROSECUTION OF PERSONS RESPONSIBLE FOR GENOCIDE AND OTHER
SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW
COMMITTED IN THE TERRITORY OF RWANDA AND RWANDAN CITIZENS
RESPONSIBLE FOR GENOCIDE AND OTHER SUCH VIOLATIONS
COMMITTED IN THE TERRITORY OF NEIGHBOURING STATES BETWEEN
1 JANUARY AND 31 DECEMBER 1994

Sixth report of the Advisory Committee on Administrative
and Budgetary Questions

I. INTRODUCTION

1. The Advisory Committee on Administrative and Budgetary Questions has considered the reports of the Secretary-General on the financing of the requirements of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (A/C.5/51/30) and the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (A/C.5/51/29 and Corr.1) for 1997. During its consideration of these matters, the Advisory Committee met with the Prosecutor and the Registrars of the Tribunals and with representatives of the Secretary-General who provided additional information.



2. As indicated in paragraph 4 of document A/C.5/51/30, and paragraph 4 of document A/C.5/51/29, the Secretary-General's 1997 budget proposals for the Tribunals for the former Yugoslavia and for Rwanda are limited to the present establishment as approved for 1996 and augmented by the minimum items needed to carry out the ongoing work of the Tribunals in 1997. The Advisory Committee notes that the Secretary-General intends to submit revised 1997 budget proposals for the Tribunals, upon conclusion of the reports by the Office of Internal Oversight Services, requested by the General Assembly in resolutions 50/212 C, paragraph 8, and 50/213 C, paragraph 9, of 7 June 1996. The General Assembly had requested the Secretary-General to entrust the Office of Internal Oversight Services with the undertaking, without prejudice to their programme of work, an inspection of the Tribunals, "with a view to identifying problems and recommending measures to enhance the efficient utilization of resources, and to report thereon to the General Assembly at its fifty-first session".

3. Upon request, the Advisory Committee was informed that the reports of the Office of Internal Oversight Services would be finalized by the end of December 1996. The Secretary-General's revised 1997 budgets for the Tribunals will be submitted subsequently, taking full account of the recommendations contained in the Office's reports. The Advisory Committee requests that these revised estimates be submitted for its review by 3 February 1997; they should be issued as addenda indicating changes to documents A/C.5/51/30 and A/C.5/51/29 and Corr.1.

4. In this connection, the Advisory Committee reiterates its request that the reports of the Secretary-General on the Tribunals should also specifically make reference to previous recommendations of the Advisory Committee, as endorsed by the General Assembly, indicating whether action has been taken and the time framework for full implementation of recommendations (A/50/925, para. 3). The Advisory Committee further reiterates its views in paragraphs 6 and 10 to 13 of its report A/50/925, which were endorsed by the General Assembly in paragraph 1 of its resolution 50/212 C. The Advisory Committee requests the Secretary-General to ensure compliance with its recommendations in formulating the revised budgets.

II. FINANCIAL REQUIREMENTS FOR THE INTERNATIONAL TRIBUNAL FOR THE FORMER YUGOSLAVIA FOR 1997

5. In his report, the Secretary-General proposes provisions of \$58,863,500 gross (\$53,475,800 net) for the financing of the International Tribunal for the Former Yugoslavia for 1997. The proposal includes an increase of \$19,173,428 gross (\$18,045,178 net) over the total appropriation of \$39,690,072 gross (\$35,430,622 net) appropriated by the General Assembly for 1996 in its resolutions 50/212 A of 23 December 1995 and 50/212 C (see A/C.5/51/30, paras. 2 and 5).

6. As indicated in paragraph 7 of document A/C.5/51/30, the Secretary-General's proposed staffing table for 1997 for the Tribunal comprises 373 posts (excluding 11 judges), reflecting an increase of 36 additional posts (15 for the Office of the Prosecutor and 21 for the Registry). In addition to the 337 temporary posts approved for 1996, the Tribunal has 55 gratis personnel

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as at 31 October 1996 (A/C.5/51/30, table 3 (c)). The Advisory Committee was informed that as at 15 November 1996 there were 63 posts vacant, comprising 29 posts in the Office of the Prosecutor (23 Professional and 6 General Service posts) and 34 posts in the Registry (22 Professional and 12 General Service posts).

7. The Advisory Committee was informed of changes in the composition of the Chambers in the past year (see also A/51/292-S/1996/665, para. 6). In this connection, the Advisory Committee wishes to recall section IV of General Assembly resolution 50/216 of 23 December 1995, by which the Assembly requested the Secretary-General to address, at the fifty-third session of the Assembly, the issue raised by the Advisory Committee in its report A/50/7/Add.11, paragraph 14. Since the terms of office of some of the Tribunal's judges will expire in 1997 and some of them may not seek reappointment, the Advisory Committee recommends that the Secretary-General, after consulting with the United Nations Legal Counsel, report to the Assembly through the Advisory Committee in the context of the addenda to be submitted early in 1997, on how to deal with the issue of the departing judges.

III. FINANCIAL REQUIREMENTS FOR THE INTERNATIONAL TRIBUNAL FOR RWANDA

8. With respect to the International Tribunal for Rwanda, the Secretary-General proposes an appropriation of \$51,415,200 gross (\$46,732,700 net), reflecting an increase of \$11,253,300 gross (\$10,238,000 net) over the 1996 appropriation (General Assembly resolution 50/213 C).

9. The Secretary-General's proposed staffing table for 1997 for the Tribunal comprises 403 posts (excluding 6 judges), reflecting an increase of 21 posts over the 382 posts established as temporary posts for 1996. The Advisory Committee notes that all the additional posts are for the Registry (see A/C.5/51/29, tables 3 and 9). The Tribunal has in addition 32 gratis personnel as at 31 October 1996. The Advisory Committee was informed that as at 1 November 1996 there were 37 posts vacant, comprising 18 in the Office of the Prosecutor (15 Professional and 3 General Service posts) and 19 in the Registry (12 Professional, and 2 Field Service and 5 local staff).

10. During the discussion on staffing issues of the Tribunal, the Advisory Committee was informed of redeployment of authorized posts in the staffing table among the various organizational units of the Tribunal to meet urgent requirements. The Registry had to borrow posts from other units over and above those on its own staffing table. In this regard, the Advisory Committee requests the Secretary-General to address this issue prior to his submission of the report on the Tribunal mentioned in paragraph 3 above. The Secretary-General should provide an up-to-date staffing table for each organizational unit and report on total deployment of resources among units of the Tribunal. The Advisory Committee reiterates that the allocation of approved resources should take into account the need to accord high priority to investigation and prosecution.

IV. CONCLUSIONS

11. The Advisory Committee points out that delays in recruitment have already affected the start-up and follow-up phases of both Tribunals. At the International Tribunal for Rwanda, recruitment of international staff has also been affected because delegated authority to appoint this class of staff in the name of the Secretary-General has not been granted. The Advisory Committee has recommended in the past that consideration should be given to granting the Tribunal for Rwanda delegation of authority in personnel matters (see A/50/923, para. 7). The Advisory Committee emphasizes that cost-cutting measures introduced at Headquarters, with a view to realizing across-the-board savings in the Organization's regular budget, should not apply to the Tribunals' special accounts without specific authorization by the General Assembly.

12. Under the circumstances, the Advisory Committee recommends that, pending the receipt of revised estimates for 1997 for the two Tribunals, the General Assembly maintain for 1997 the same appropriation levels approved for 1996 for the Tribunals but with existing staff calculated at full cost, actual 1997 rental cost and deletion of non-recurrent 1996 costs. In this connection, the Advisory Committee points out that it has not pronounced itself on any of the proposals for new posts; all proposals for new posts should be submitted in the context of the revised budgets mentioned in paragraph 3 above.

13. Upon request, the Advisory Committee was informed that requirements for 1997 mentioned in paragraph 13 above would amount to \$47,377,100 gross (\$42,293,800 net) for the International Tribunal for the Former Yugoslavia and \$46,229,900 gross (\$41,742,200 net) for the International Tribunal for Rwanda. Consequently, the Advisory Committee recommends that, at the present stage, the General Assembly appropriate these amounts for 1997 for the Tribunals for the Former Yugoslavia and for Rwanda, respectively. The assessment of these amounts could take into account the unencumbered balances as at 31 December 1996. In this connection, the Advisory Committee was informed that the projected unencumbered balance for the International Tribunal for Rwanda, in respect of 1996, is \$12 million. As for the International Tribunal for the Former Yugoslavia, the Advisory Committee was informed that the unencumbered balance is estimated at \$5 million.

14. The Advisory Committee believes, as indicated in paragraph 45 of its report A/50/925, that the resources appropriated and authorized for the Tribunals should be administered with flexibility consistent with the Financial Regulations and Rules of the United Nations. The Advisory Committee expects to revert to the issue of the total resources needed by the Tribunals and comment in detail on the matter during its examination of the Secretary-General's reports mentioned in paragraph 3 above.

15. Furthermore, the Advisory Committee recommends that the Secretary-General prepare comprehensive performance reports for 1996, indicating how resources were utilized, including both assessed and voluntary contributions. The report should compare actual expenditures with the amounts budgeted and explain in detail reasons for variations in the application of funds from the original intended purposes.

16. As can be seen in paragraphs 6 and 9 above, both Tribunals are utilizing gratis personnel. The Advisory Committee notes that donors are charged 13 per cent support costs in respect of these personnel. In a previous report on the International Tribunal for the Former Yugoslavia (A/49/7/Add.12, para. 39), the Advisory Committee recommended that the Secretary-General issue specific guidelines on the requirements for receipt of contributions and application of funds for the International Tribunal for the Former Yugoslavia. In its report A/50/925, paragraph 9, the Advisory Committee pointed out that the Secretary-General has not yet issued specific guidelines for the receipt of contributions and application of funds for the Tribunal, as requested by the General Assembly in paragraph 13 of resolution 49/242 B. In paragraph 7 of that report the Advisory Committee had stated that the 13 per cent charge was "a policy issue that needs to be addressed by the General Assembly, especially with regard to personnel provided free of charge to the United Nations to occupy posts which would otherwise have been funded from assessed contributions". The Secretary-General has since issued, on 21 November 1996, a report on gratis personnel provided by Governments and other entities (A/51/688). Owing to the late issuance of this report, the Advisory Committee is not in a position to complete its consideration of the matter before the end of 1996. It will revert to its consideration of gratis personnel during its winter session (February/March 1997) and in that context will, inter alia, make recommendations on this issue as it affects the Tribunals.



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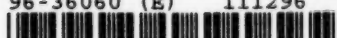
Fifty-first session
Agenda item 116

PROGRAMME BUDGET FOR THE BIENNIUM 1996-1997

First performance report

Report of the Advisory Committee on Administrative and Budgetary Questions

1. The Advisory Committee on Administrative and Budgetary Questions has considered the first performance report of the Secretary-General on the programme budget for the biennium 1996-1997 (A/C.5/51/38). During its consideration of the report, the Advisory Committee met with the Controller and other representatives of the Secretary-General, who provided additional information to the Committee.
2. The current estimates of revised requirements for the biennium 1996-1997 amount to \$2,602,693,800, as indicated in paragraph 5 of the report. These provide for a reduction of \$5,580,200 compared with the appropriation of \$2,608,274,000 approved by the General Assembly in its resolution 50/215 of 23 December 1995.
3. As can be seen from the table in paragraph 5 of the report, the net reduction of \$5.6 million reflects the combined effect of an anticipated reduction of \$60.1 million (owing to more favourable rates of exchange than foreseen) largely offset by additional requirements of: (a) \$30.9 million resulting from additional mandates approved by the General Assembly after the adoption of the programme budget (MICIVIH, MINUGUA, Climate Convention, ONUV and International Commission for Rwanda); (b) \$3.0 million related to commitments authorized under the terms of General Assembly resolution 50/217 of 23 December 1995 on unforeseen and extraordinary expenses; (c) \$5.1 million for changes in inflation assumptions; (d) \$3.2 million owing to adjustments to standard salary costs; and (e) \$12.3 million in connection with the recommendations of the International Civil Service Commission.



4. The Committee notes from paragraph 17 of the report that exchange rate fluctuations account for a reduction of \$60.1 million. This reduction is mainly attributable to a strengthening of the United States dollar against the Swiss franc and the Austrian schilling. Schedule 3 of the report provides detailed information on the monthly operational rates of exchange in 1996 for all duty stations.

5. The Committee recalls that in paragraph 110 of its audit report for the biennium 1994-1995,¹ the Board of Auditors had recommended the adoption of an averaging method for forecasting the operational rates of exchange for the purpose of budget formulation and recosting. As indicated in paragraph 19 of the performance report (A/C.5/51/38), the Administration's position on this matter is that "the decision to use the averaging method or the exchange rate for the latest month should be made at the time of each recosting". The Committee notes that the 1996 December rates rather than the 1996 average were considered by the Administration as less costly for 1997 budget requirements. Following its previous recommendations, the Advisory Committee's view on this matter is that the Administration should use such operational rates of exchange in its recosting exercises as would allow for the lowest estimates.

6. An explanation of the estimated requirements of \$30.9 million related to additional mandates is contained in paragraphs 9 to 13 of the performance report. The Advisory Committee recalls that the General Assembly, in its resolutions 50/231 and 50/232 of 7 June 1996, requested the Secretary-General to submit, by 1 September 1996, a report containing proposals on possible means of absorption of the cost of additional mandates in the programme budget for the biennium 1996-1997, including, *inter alia*, in part II thereof and in the area of staff costs where savings might arise from the implementation of the early separation programme during the biennium. The possibility of additional appropriations was also envisaged in resolution 50/231. It is further recalled that the Secretary-General, in paragraph 13 of his progress report on the programme budget for 1996-1997 (A/C.5/50/57/Add.1), indicated that he intended to submit the requested proposals in the context of the first performance report.

7. The Committee points out that the Secretary-General's first performance report does not specifically address the question of possible means of absorption of the cost of additional mandates. The representatives of the Secretary-General clarified that the estimated requirements of \$30.9 million will be absorbed from savings of \$60.1 million resulting from more favourable exchange rates than anticipated and not from savings attributable to the vacancy rate. In this connection, the representatives of the Secretary-General informed the Advisory Committee that in order to achieve the savings requested by the General Assembly in resolution 50/214 in the amount of \$104 million, a target vacancy rate of 10.4 and 7.5 per cent was being utilized for staff in the Professional and above and in the General Service categories, respectively.

8. The Committee notes that the estimated provision of \$30.9 million will cover the cost of the United Nations activities in Haiti (MICIVIH), Guatemala (MINUGUA), El Salvador (ONUV) and Rwanda (Commission of Inquiry) during 1996 only and the cost of the meetings of the Conference of the Parties to the United Nations Framework Convention on Climate Change during both 1996 and 1997. Upon

inquiry, the Committee was informed that should the mandates of MICIVIH, MINUGUA and ONUV be extended beyond 1996, the question of their financing will be considered in the context of the financing of additional requirements of \$17 million related to new mandates referred to in paragraph 7 of the performance report.

9. The Advisory Committee recalls, in this connection, that it was informed in the context of its consideration of the Secretary-General's progress report (A/C.5/50/57/Add.1) that "the total cost of the new mandates for 1996-1997 is currently estimated at \$92 million, of which \$37 million will be required for 1996" (see A/51/7/Add.1, para. 35). Taking into account that the revised 1996 requirements for the new mandates amount to \$30.9 million, the Committee does not see at this stage how the balance of about \$60.1 million relates to the \$17 million referred to in paragraph 7 of the performance report. The Advisory Committee requests, therefore, that the Secretary-General clarify this matter. The Advisory Committee reiterates its observation that "it is important to remember that General Assembly resolution 41/213 has been reaffirmed (see, for example, General Assembly resolutions 50/230, 50/231 and 50/232) and continues to apply until the Assembly specifically changes it" (see A/51/7/Add.1, para. 36).

10. The Committee notes from paragraphs 6 and 7 of the report (A/C.5/51/38), that in response to draft resolutions considered in the Main Committees of the General Assembly at its current session, the Secretary-General has thus far issued revised estimates and statements of programme budget implications in the amount of \$4.5 million, of which \$0.4 million will not be covered by the contingency fund; the treatment of \$2.7 million in respect of the International Seabed Authority is yet to be decided. The Committee recalls that the General Assembly, in section VIII of its resolution 50/216 of 23 December 1995, noted that a balance of \$19.4 million remained in the contingency fund.

11. Together with the amount of \$17 million for additional mandates referred to in paragraphs 8 and 9 above, the total additional requirement not factored into the performance report amounts to \$21.5 million. The Committee was provided, on request, with a breakdown, reproduced in the annex below, of these total additional requirements. The performance report does not contain any proposals as to how the additional requirements of \$21.5 million will be financed.

12. The Advisory Committee notes from paragraph 12 of the report that the 1997 conference-servicing requirements for the meetings of the Convention on Climate Change are estimated at \$3.1 million. The performance report, however, does not indicate the total requirements for conference servicing for 1997, nor does it specify how additional conference-servicing requirements resulting from statements of programme budget implications considered during the current session of the General Assembly should be treated. The Advisory Committee recommends, therefore, that the Secretary-General provide this information to the Fifth Committee, in the context of its consideration of the performance report.

13. Paragraphs 14 to 16 of the performance report deal with additional requirements of \$3.0 million resulting from unforeseen and extraordinary expenses which fall under the terms of General Assembly resolution 50/217. Of

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the total of \$3.0 million, an amount of \$2.8 million represents commitments certified by the Secretary-General as relating to the maintenance of peace and security, \$0.1 million is attributable to commitments certified by the President of the International Court of Justice as relating to unforeseen and extraordinary expenses and \$46,500 is attributable to commitments relating to the United Nations share in the financing of interorganizational security measures.

14. With regard to commitments in the amount of \$2.8 million authorized by the Secretary-General as relating to the maintenance of peace and security, the Advisory Committee is of the view that when requirements result from recourse to the provisions of General Assembly resolutions on unforeseen and extraordinary expenses, it should be incumbent upon the Secretary-General to make appropriate budgetary proposals if such requirements are later deemed to be of a continuing nature.

15. As far as the additional requirements of \$46,500 for interorganizational security measures are concerned, the Advisory Committee points out that as an exception to previous resolutions on the subject, General Assembly resolution 50/217 on unforeseen and extraordinary expenses for the biennium 1996-1997 does not contain provisions which would allow the Secretary-General to authorize commitments for interorganizational security measures without prior concurrence of the Advisory Committee. The Committee expects that its concurrence will be requested by the Secretary-General in respect of all 1996-1997 requirements for interorganizational security measures.

16. A net increase of \$5.1 million is shown under inflation, reflecting a combined effect of additional net requirements of \$7.2 million relating to post adjustment indices and cost-of-living adjustments being higher than anticipated in respect of a number of duty stations. These were somewhat offset by a net reduction of \$2.1 million resulting from a lower than anticipated rate of inflation for objects of expenditure other than posts in respect of most major duty stations, except for New York.

17. As can be seen from paragraphs 23 and 24 of the report of the Secretary-General, a net increase of \$3.2 million reflects a combined effect of an increase of \$9.0 million resulting from adjustments to standard salary costs which was somewhat offset by a decrease of \$5.8 million in requirements for standard common staff costs. The increase relating to adjustments to standard salary costs for 1996 reflect the actual average payroll data by category and level of staff at each duty station, while projections for 1997 are based on the trends experienced in 1996. The reduction relating to adjustments in common staff costs is also based on actual experience in 1996 in respect of payments to staff located at Addis Ababa, Amman and Vienna.

18. Net additional requirements of \$12.3 million relate to the recommendations of the International Civil Service Commission on remuneration of the Professional and higher categories of staff, dependency allowances and education grant, which are currently under review by the Fifth Committee. These requirements may, if necessary, be amended in the light of the General Assembly decision on this matter.

19. As indicated in paragraph 2 of the report, the first performance report for the biennium 1996-1997, in addition to adjustments resulting from variations in the rates of inflation and exchange and in the standards assumed in the calculation of the initial appropriations, takes into account the adjustments that the Secretary-General had proposed in his progress report (A/C.5/50/57/Add.1) on the implementation of General Assembly resolution 50/214; no changes are proposed in the performance report in respect of the proposals contained in document A/C.5/50/57/Add.1 and according to the Secretary-General there have been no significant developments that would warrant revisions of the amounts included in that report.

20. The Advisory Committee recalls in this connection, that in the context of its consideration of the Secretary-General's progress report on the programme budget for the biennium 1996-1997, the Committee pointed to a number of specific issues which were not adequately addressed in the Secretary-General's progress report, including:

(a) The question of vacancies, their composition and how they have been achieved;

(b) The extent of intergovernmental review;

(c) The question of additional mandates vis-à-vis General Assembly resolutions 50/231 and 50/232;

(d) The question of deferred or postponed programmes and activities (see A/51/7/Add.1, para. 6).

The Committee points out that the above issues remain, almost entirely, to be addressed by the Secretary-General.

21. It is recalled that in paragraph 38 of its report (A/51/7/Add.1), the Advisory Committee recommended that the General Assembly consider and approve revised appropriations, after it has taken action on the proposals submitted by the Secretary-General in his progress report (A/C.5/50/57/Add.1). However, as indicated above, numerous questions remain to be answered, including the impact on the 1997 costs of the additional mandates and the outstanding questions raised by the Advisory Committee in its report on the Secretary-General's progress report. Under these circumstances, the Advisory Committee is of the view that revised appropriations should be adopted by the General Assembly after the above issues have been addressed by the Secretary-General and considered by the General Assembly.

Notes

¹ Official Records of the General Assembly, Fifty-first Session, Supplement No. 5 (A/51/5), vol. I, chap. II.

ANNEX

Additional requirements

Subject	Thousands of United States dollars	Document reference
A. Documents already issued (A/C.5/51/38, para. 6)		
I. CONTINGENCY		
Revised estimates (Economic and Social Council)	1 096.2	A/C.5/51/20
International Action to Combat Drug Abuse etc.	<u>290.5</u>	A/C.5/51/36
CONTINGENCY	<u>1 386.7</u>	
II. OUTSIDE CONTINGENCY		
Central American Peace Process	<u>391.9</u>	A/C.5/51/32
III. TO BE DECIDED		
International Seabed Authority	<u>2 750.5</u>	A/C.5/51/21
GRAND TOTAL:		
(A/C.5/51/38, para. 6)	<u>4 529.1</u>	
B. Anticipated between now and closure of the fifty-first session, in December 1996 ^a		
(A/C.5/51/38, para. 7)		
MINUGUA) Tentative estimates:		
MICIVIH) \$17 million - [outside		
EL SALVADOR) contingency fund]		
AFGHANISTAN) no draft resolutions		
BURUNDI) tabled		

^a As of 4 December 1996.
